

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

IN RE:

James Lofton Johnson
Patricia Lynn Johnson

Debtors

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Case No. 17-71129

MOTION TO APPROVE LOAN MODIFICATION AND NOTICE OF HEARING

This motion by James Lofton and Patricia Lynn Johnson, debtors, by their attorney, Malissa L. Giles, respectfully represents:

1. The debtors filed for protection of the Court under Chapter 13 on August 23, 2017 and their Chapter 13 plan was subsequently confirmed.
2. The debtors own a home located at 2842 Forage Road, Shawsville, VA 24162.
3. At the time of filing, the home was valued at \$185,100.00. See Schedule A.
4. At the time of filing, the property was encumbered by two notes secured by deeds of trust, both of which are currently owed to Bayview Loan Servicing LLC:
 - a. The debtors owed \$145,163.81 to Bayview on the first mortgage. See Proof of Claim 14.
 - b. The debtors owed \$17,596.66 to Bayview on the second mortgage. See Proof of Claim 13.
5. At the time of filing, the debtors were slightly behind by \$1,750.08 on the first mortgage, which amount was to be paid through the Chapter 13 plan.
6. At the time of filing, the debtors were slightly behind by \$233.30 on the first mortgage, which amount was to be paid through the Chapter 13 plan.
7. The debtors' monthly payment, with no escrow account included, at the time of filing on the first mortgage was \$1,191.68.
8. Bayview Loan Servicing, LLC is willing to offer a loan modification based on the following terms:

Current Terms		Proposed Mod. Terms	
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Current Unpaid Principal Balance	\$143,727.63	Post-Mod. Unpaid Principal Balance	\$155,377.20
Current Maturity Date per deed of trust	03/05/2036	Post Modification Maturity Due Date	06/01/2046
Current Term Remaining (in months)	Est. 187	Post Modification Term (in months)	Est. 480
Current Principal and Interest	\$1,191.68	Post Modification Principal and Int.	\$893.77
Current Payment Amount (no escrow account)	\$1,191.68	Est. Post Modification Pymt Amt. (includes escrow for taxes and ins.)	\$1,139.92
Current Interest Rate	8.54160% per POC	Post Modification Int. Rate	6.356%, stepping up to 7.356% in year 6, and 8.050% in years 7-40
		Amount (Capitalized)	\$11,649.57

9. The debtors have signed and returned the loan modification.
10. The debtors have not discussed the reason for the loan modification or the impact of said loan modification with counsel, but indicated they would like the modification approved. Counsel is planning to meet with debtors and will provide a supplemental statement or motion as to the reason for the necessity of the modification and notice regarding the debtors' understanding of the long-term interest consequences of the modification vs. other possible remedies.
11. The debtors are current with their Chapter 13 Plan payments.
12. Counsel learned of the loan modification on Sept. 7, 2018, but was not able to get a copy of the modification until Monday, Sept. 17, 2018. This motion is being filed as quickly as possible after obtaining the modification. Counsel was notified of the modification by counsel for Bayview. Counsel for the debtors had not been advised by her clients they had signed a modification.
13. As the second deed of trust is also held by Bayview Loan Servicing, LLC, it should be clearly aware of the impact of the modification.

14. Any order approving the loan modification should provide for the Chapter 13 Trustee to be relieved of payment on any arrearage claim related to Proof of Claim 14 which remains outstanding.

WHEREFORE, the debtors, by counsel, respectfully move this Court to allow them to enter into the loan modification under the terms set forth, and for such other relief as is just.

Respectfully Submitted:

JAMES LOFTON JOHNSON
PATRICIA LYNN JOHNSON
BY: /s/ Malissa L. Giles
Counsel

NOTICE OF HEARING

Comes now the debtor, by counsel, and notices all creditors and interested parties that the United States Bankruptcy Court, Western District of Virginia, Roanoke Division, (210 Church Avenue, Room 200, Roanoke, VA 24011) will consider the attached Motion to Approve Loan Modification on Nov. 5, 2018 at 11:00 a.m.

IF NO OBJECTIONS ARE FILED WITHIN 21 DAYS OF SERVICE OF THIS NOTICE, the Court may consider entry of an order approving the loan modification and cancel the hearing scheduled for Nov. 5, 2018.

Dated: Sept. 19, 2018

JAMES LOFTON JOHNSON
PATRICIA LYNN JOHNSON
/s/ Malissa L. Giles
Counsel

I, Malissa Lambert Giles, counsel for the debtors, hereby certify that I have today, the 19th day of Sept. 2018, sent a copy of foregoing Motion and Notice of Hearing via electronic mail or via pre-paid US Postal Service to all parties who filed claims in the case, other than those served by the CM/ECF System.

/s/ Malissa L. Giles
Counsel

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